

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Police –Nalgonda District - Sri G.Mallaiah, SI of Police – Punishment of PPI for two years without effect – Set aside – Orders – Issued.

HOME (SERVICES-II) DEPARTMENT

G.O.Ms.No. 32

dated:19-01-2009

Read the following:

1. Memo. Rc.No 367/02/05, dated: 3-11-2005 of the DGP, AP, Hyderabad
2. Memo. Rc.No 367/02/05, dated: 13-6-2006 of the DGP, AP, Hyderabad
3. Govt. Memo. No.25054/Ser-I/A2/2006-2, dated: 16-05-2007.
4. Judgement of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad, dated 19-2-2008, in OA.No.5002/2007
5. Govt.Memo.No.7098/Ser.II/A3/2008, dated: 12-3-2008
6. Govt.Memo.No.34155/Ser.II/A3/2008, dated 30-5-2008
7. From Sri G.Mallaiah, SI of Police, Nalgonda District representation, dated 26-8-2008
8. Govt.Memo.No.34155/Ser.II/A3/2008, dated 16-9-2008
9. From the Director General of Police, Andhra Pradesh, Hyderabad, Lr.Rc.No.473/O2/2007, dated: 24-9-2008

Order:

In the reference 1st read above, the DGP, AP, Hyderabad, has framed an article of charge under Rule 22 of APCS (CC&A) Rules, 1991, against Sri E. Anandam, formerly Inspector of Police, now DSP, Sri G. Venkatesh, CI of Police, Yadagirigutta, and Sri G. Mallaiah, the then SI of Police, Alair, Nalgonda District, for the following delinquency.

“Perfunctory investigation in Cr.No.100/01 u/s 147, 148, 302 r/w 149 IPC of Alair P.S. and given scope to end the case in acquittal and also given scope to the Hon'bel Judge JFCM Court, Bhongir, for passing adverse comments”.

2. In the reference 2nd read above, the DGP, AP, Hyderabad, has awarded the punishment of PPI for two years without effect on future increments and pension against the above three charged officers. Aggrieved by the said orders, all the charged officers have submitted appeal petitions to the Government and the same has been rejected by the Government in the reference 3rd read above.

3. Thereafter, Sri G. Mallaiah, SI of Police, Nalgonda District, has approached the Hon'ble APAT, Hyderabad, in O.A.No.5002/2007. The Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad, in their order dated: 19-02-2008, has allowed the O.A.No.5002/2007.

4. In the reference 7th read above, Sri G. Mallaiah, the then SI of Police, Alair, Nalgonda District, has requested the Government to implement the orders of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad, and issue necessary orders.

5. In the reference 9th read above, the Director General of Police, Andhra Pradesh, Hyderabad, has stated that the Hon'ble Andhra Pradesh Administrative Tribunal,

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Hyderabad, in their order has stated that the charge framed against Sri G. Mallaiah is as vague as possible, as the contents of the Trial Court has been taken into account, and it is not stated which act of the applicant has resulted in making such comments by the Trial Judge, and, therefore, as to how it amounts to misconduct. Therefore, the charge and the imputation are as vague as possible and in view of this, the applicant could be able to answer them specifically and properly. The DGP, AP, Hyderabad, has further stated that after due examination of the entire matter, it is found that the common charges were framed in the reference 1st read above, in respect of the three charged officers i.e. Sri E. Anandam, formerly Inspector of Police, now DSP, Sri G. Venkatesh, CI of Police, Yadagirigutta, and Sri G. Mallaiah, the then SI of Police, Alair, Nalgonda District. Instead of this, the charges ought to have been framed separately identifying the lapses against each of the charged officer and should have been disposed of in separate proceedings.

6. The Director General of Police, Andhra Pradesh, Hyderabad, has, therefore, requested the Government to clarify whether the common charges framed earlier in his office memo 1st read above, for minor PR and also the disposal given thereon vide his office proceedings 2nd read above may be cancelled now, in pursuance of the Hon'ble APAT orders and also based on the opinion of GP (Ser.I), High Court of A.P., Hyderabad, and, thereafter, whether separate charges could be framed and issued to the above charged officers identifying the lapses in respect of the each of them. It is in fitness of things that such course of action is followed.

7. As seen from the Judgement of the the Hon'ble APAT, Hyderabad, in the reference 4th read above, the Hon'ble Tribunal after examining the comments made by the Trial Judge in S.A.No.518/2002, i.e. Third Additional Sessions Judge (FTC), Nalgonda, have come to a conclusion that the Trial Court Judge have made comments against the Investigating Officer i.e.P.W.12 i.e. Sri G. Venkatesh, who was the C.I. of Police, but not the applicant herein. The Hon'ble APAT has further observed that the enquiry process made by the DGP, AP, Hyderabad, is contrary to rule 20 of the CCA Rules, 1991. But, the DGP have framed charges against the said employees, under rule 22 of the CCA Rules but not under rule 20 of the CCA Rules. In so far as the judgment of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad, in regard to the comments made by the Trial Judge against the Investigating Officer, i.e. Sri G. Venkatesh appears to be correct.

8. With regard to the framing of the separate charges against all the charged officers, it is stated that common charges may be framed against those who are involved in one case or in the same case. When two or more persons are involved in one case, magnitude of involvement of all the delinquent officers may not be the same and the degree of culpability may also vary from person to person. As such it may not be possible to impose the same penalty uniformly on all the charged officers, irrespective of the degree of their involvement. Therefore, the competent authority, who orders such a joint enquiry should ensure that the members of service involved in disciplinary case are imposed the penalty keeping in view their degree of culpability/seriousness of lapses/charges held proved.

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9. Government after careful examination of the matter, and in view of the orders of the Hon'ble APAT, Hyderabad, dated 19-2-2008, in O.A.No. 5002/2007, hereby set aside the punishment of PPI for two years without effect on future Increments and Pension, in respect of Sri G.Malliah, SI of Police, Nalgonda District, which was awarded by the DGP, Andhra Pradesh, Hyderabad, in the reference 2nd read above. However, there is no necessity to frame separate charges against the remaining two charged officers, i.e. Sri E. Anand, and Sri G. Venkatesh, and as such the punishment imposed against the remaining two charged officers, by the Director General of Police, Andhra Pradesh, Hyderabad, in the reference 2nd read above, should be continued.

10. The Director General of Police, Andhra Pradesh, Hyderabad, is requested to take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJOYENDRA PYAL
PRINCIPAL SECRETARY TO GOVERNMENT

To,
The Director General of Police, Andhra Pradesh, Hyderabad,
The individual concerned through the DGP, AP, Hyderabad,
SF/SC

// FORWARDED :: BY ORDER //

SECTION OFFICER